IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.07.2006

Coram

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.455 of 2006

Mathivanan ... Petitioner

-Vs-

1. State rep.by its
Secretary to Government
Prohibition and Excise Dept.,
Secretariat
Chennai 600 009

2. The Commissioner of Police
Greater Chennai, Egmore,
Chennai 600 008 ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to direct the respondents to produce the detenue namely Ramesh @ Kothali Ramesh, S/o Palani, who is now detained in Central Prison, Chennai in pursuance of the order passed by the 2nd respondent on 5.4.2006 in Memo.No.97/BDFGISV/2006 before this Hon'ble Court, call for the records set aside the order and set the detenue at liberty forthwith.

For Petitioner : Mr.S.Swamidoss Manokaran

For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner herein challenges the impugned order of detention, dated 5.4.2006, detaining his brother by name Ramesh @ Kothali Ramesh as 'Bootlegger' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

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2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that as per the grounds of detention in Tamil, both the accused namely, Ramesh @ Kothali Ramesh and Babu were enquired and they gave voluntary confessional statements, which were recorded by the Sub Inspector of Police. However, in the English version of the grounds of detention, it is duly stated that the confessional statement of Babu was not furnished to the detenu and was also not placed before the detaining authority, which vitiates the detention order.

4. With regard to the said contention, we verified the Tamil and English versions of the grounds of detention. The Tamil version of the grounds refers to the relevant fact that when Ramesh (detenu) and Babu were surrounded, 90 packets of illicit arrack were found in their bags. They made voluntary confessional statements and the Sub Inspector of Police recorded the statements of Ramesh as well as Babu which, according to the sponsoring authority, is independent. On the other hand, in the English version of the grounds, the presence of Babu has not been mentioned. The grounds proceed that the detenu alone made confession statement and there is no reference to the presence of Babu and his confession statement. There is no explanation for the same. In such circumstances, as rightly pointed out by the learned counsel for petitioner, the English version contains different statement and that apart, the confessional statement of Babu, though specifically referred to in Tamil version of the grounds of detention, was not furnished to the detenu and also not placed before the detaining authority, which vitiates the order of detention.

5. On this ground, we quash the impugned order of detention and the Habeas Corpus Petition is allowed. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

ss

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1.Secretary to Government, Prohibition and Excise Department, Fort St. George, Chennai 600 009.

2.The Commissioner of Police, Greater Chennai, Egmore,Chennai 600 008

3.The Superintendent, Central Prison, Chennai 600 003
(In duplicate for communication to the detenue)

4.The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5.The Public Prosecutor, High Court, Madras.

+ one cc to Mr.S.Swamidoss Manokaran, Advocate Sr.No.30850.

NG (CO)
RSM/27.7.2006

HCP.No.455 of 2006

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